

FCC MAIL SECTION

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FCC 92M-871
03846

In the Matter of
Revocation of License of
SANDRA V. CRANE
Amateur Radio Station
N6TFO
Marina Del Ray, California

PR DOCKET NO. 92-119

and

Suspension of License of

SANDRA V. CRANE
Amateur Extra Class
Radio Operator License

and

Revocation of License of

CHARLES P. PASCAL
Amateur Radio Station
WB6CIY
Carson City, Nevada

and

Suspension of License of

CHARLES P. PASCAL
Amateur Extra Class
Radio Operator License

MEMORANDUM OPINION AND ORDER

Issued: August 11, 1992 ; Released: August 13, 1992

1. Under consideration are a "Joint Motion to Schedule Field Hearing Or For Change of Venue" filed by Charles P. Pascal and Sandra V. Crane on July 31, 1992 and the Private Radio Bureau's "Opposition to Respondents Motion to Change Location of Hearing" filed by the Bureau on August 6, 1992.¹

1 The Bureau filed a "Correction to Bureau's Opposition" on August 7, 1992.

2. By Order to Show Cause and Suspension Order (DA 92-508) released April 24, 1992, the respondents herein were ordered inter alia, to show cause why their captioned amateur service radio station licenses should not be revoked. The order alleged violations of Section 97.17(e), 97.515(d) and/or 97.517 of the Commission's rules committed by the respondents in providing instruction to students and the administration of amateur service license examinations. The pre-hearing conference and hearing is scheduled to commence on September 29, 1992 in Washington, D.C. (See Order of the Chief Administrative Law Judge 92M-656) released June 10, 1992, and Order of the Presiding Judge FCC 92M-697 released June 22, 1992 and corrected by Order released June 24, 1992).

3. Respondents request that the hearing in this proceeding be held in the Los Angeles, California area. In support of this request, respondents allege that the facts relating to the classes and tests in issue all occurred in the Los Angeles area; that all people involved in the testing session are residents of the greater Los Angeles area; that some of the Bureau's witnesses are Los Angeles area residents and Pascal is a resident of Carson City, Nevada, a relatively short distance from Los Angeles; that respondents, in their witness list, have identified 16 proposed witnesses who reside in the Los Angeles area, and, based on documents obtained from the Bureau, other individuals were either applicants or volunteer examiners at the tests in issue in this proceeding; that Pascal and Crane are individuals of modest means who cannot afford to transport witnesses to Washington, D.C.; that Pascal is "visually handicapped;"² and that unless the hearing is held in the Los Angeles area, respondents will be unable to present their case and this will result in a denial of due process.

4. The Bureau, in its Opposition, argues that except for the testimony of adverse witnesses, all testimony is to be presented in writing; that except for the respondents themselves, the Bureau believes it will be unnecessary to require the appearance of respondent's proposed witnesses for cross-examination; that some of the witnesses identified by respondents do not propose to offer testimony relevant under the issues; that the Bureau's witnesses are not located in the Los Angeles area, but rather will be in locations closer to Washington, D.C. than Los Angeles, California; that respondents have acknowledged that they have sufficient financial resources to transport themselves to Washington and that such appearance will not constitute an undue hardship; that if it develops that the Bureau finds it necessary to cross-examine a number of respondent's Los Angeles area witnesses, the Bureau will reconsider its position.

5. The request to change the place of hearing appears premature at this time. In this connection, the Presiding Judge, at the parties request

2 Respondent contends that the American with Disabilities Act would be violated if Pascal, is required to travel to Washington to participate in this hearing. However, respondent cites no specific provision of the Act to support its position.

adopted a comprehensive procedural schedule to govern this proceeding. (See Order of Presiding Judge (FCC 92M-697) released June 22, 1992 and corrected by Order released June 24, 1992). Such schedule provides, inter alia, for the submission of written testimony (except adverse witnesses) and requests to cross-examine witnesses. Thus, until the written testimony is exchanged and requests for cross examination is made and ruled upon by the Presiding Judge, it is unknown at this time whether any of respondent's proposed witnesses will be required to appear in Washington, D.C. for cross-examination. How many of respondent's witnesses, if any, will be required for cross-examination must await the rulings of the Presiding Judge on the admissibility of their testimony and the need for cross-examination. If it appears that a number of witnesses who reside in the Los Angeles area are needed for cross-examination, and if it appears that it will be cost effective and conduce to the ends of justice to hold a hearing session in the Los Angeles area, then such request will be considered.³ But at this time it is premature to consider a request to hold a hearing in the Los Angeles area simply because it is not known how many, if any, of respondent's witnesses who presently reside in the Los Angeles area will be needed for cross-examination.

Accordingly, IT IS ORDERED that the "Joint Motion to Schedule Field Hearing or for Change of Venue" filed by Charles Pascal and Sandra Crane on July 31, 1992 IS DENIED, without prejudice to a renewed request for such relief as discussed in paragraph 5 above.

FEDERAL COMMUNICATIONS COMMISSION



Joseph Stirmer
Chief Administrative Law Judge

³ The use of depositions, or cross examination by speakerphone pursuant to Section 1.364 of the Commission's rules, are options that should be considered in lieu of holding a hearing in the Los Angeles area.